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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/808,552	03/25/2004	Yasushi Yatsuda	ST3001-0038	4922
39083 7590 08/23/2007 CERMAK KENEALY & VAIDYA, LLP 515 EAST BRADDOCK RD SUITE B Alexandria, VA 22314			EXAMINER TON, ANABEL	
			ART UNIT 2875	PAPER NUMBER
			MAIL DATE 08/23/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/808,552	Applicant(s) YATSUDA ET AL.	
	Examiner Anabel M. Ton	Art Unit 2875	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 June 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5, 7-10 and 12-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7-10 and 12-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1-5,7-10,12-36 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 8 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant attempts to recite a relation between a given ridgeline and a second ridgeline, but fails to identify either in the drawings or explain where a given and second ridgeline are located with respect to the base.
4. As best understood the following rejection applies.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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2. Claims 1,5,7,9,10,13,14,18,22, 24-26,34-36 are rejected under 35 U.S.C. 102(e) as being anticipated by Thominet (6.565.247).

Thominet discloses a base (12); a plurality of LED elements located adjacent the base (10); and a light shielding device located adjacent the base and formed in the shape of a light distribution pattern (16), wherein the LED elements are arranged in such a manner as to correspond to the shape of the light shielding device (fig 1), and in such a manner as to form an emission shape suited for a light distribution pattern for a vehicle headlight (abstract), and at least some of the LED elements are arranged along a given ridgeline(the LEDs arranged along the upper, lower, right or left sides satisfies this limitation); a drive device capable of supplying different drive currents to the LED elements, wherein at least one of the LED elements is driven by a different drive current as compared to another of the LED elements(col.4-5 lines 50-67, 1-25 respectively).with regards to claim 9, inherently the base of Thomniet has at least one cavity for accommodating the LED's since the leads of the LEDs must be soldered through the base/pc board in order to be electrically connected thereof. Thominet is considered to have the LEDs arranged in such a manner as to form a brightness distribution suitable for a vehicle headlight; a projection lens (14), With regards to claim 14, since the LEDs of Thomniet are capable of illuminating individually or in groups, the limitation of "formed in a non symmetrical array" is considered to be satisfied; the optical axis is located a positioning the substantial center of the array (fig 2),

Claim Rejections - 35 USC § 103

3. Claims 2-4,8,12,15-17,19-21,23,27-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thomniet.

- With regards to the LED's being different in size one compared to the other, It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the LED's of Thomniet different in size, since it has been held by the courts that, where the only difference between the prior art and the claims was a recitation of relative dimensions of the claimed device, and a device having the claimed relative dimensions would not perform differently than the prior art device, the claimed device was not patentably distinct from the prior art device. *In Gardner v. TEC Systems, Inc.*, 725 F.2d 1338, 220 USPQ 777 (Fed. Cir. 1984), cert. denied, 469 U.S. 830, 225 USPQ 232 (1984),). It appears that the disclosed device would perform equally well shaped as disclosed by Thomniet since the end result of the device is to provide a light distribution pattern for a headlight.
- With regards to the LED's being triangular, rectangular parallelogramic or square in shape, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include these shapes in the shapes of the LEDs provided by Thomniet, since it has been held by the courts that a change in shape or configuration, without any criticality, is nothing more than one of

numerous shapes that one of ordinary skill in the art will find obvious to provide based on the suitability for the intended final application. See *In re Dailey*, 149 USPQ 47 (CCPA 1976). It appears that the disclosed device would perform equally well shaped as disclosed by Thominet.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anabel M. Ton whose telephone number is (571) 272-2382. The examiner can normally be reached on 08:00-16:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (571) 272-2378. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Anabel M Ton
Examiner
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AMT

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